

## Department of Energy

## § 600.316

or (d)(2) of this section, and stipulate a limit on the amounts that may be used in those ways, program income in excess of the stipulated limits must be used in accordance with paragraph (d)(3) of this section.

(f) In the event that the program regulation or terms and conditions of the award do not specify how program income is to be used, paragraph (d)(3) of this section applies automatically to all projects or programs except research. For awards that support basic or applied research, paragraph (d)(1) of this section applies automatically unless the terms and conditions specify another alternative or the recipient is subject to special award conditions, as indicated in § 600.304.

(g) Proceeds from the sale of property that is acquired, rather than fabricated, under an award are not program income and must be handled in accordance with the requirements of §§ 600.320 through 600.325 of this part.

### § 600.315 Revision of budget and program plans.

(a) The budget plan is the financial expression of the project or program as approved during the award process. It includes the sum of the Federal and non-Federal shares when there are cost sharing requirements. The budget plan must be related to performance for program evaluation purposes, whenever appropriate.

(b) The recipient must obtain the contracting officer's prior approval if a revision is necessary for either of the following two reasons:

(1) A change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).

(2) A need for additional Federal funding.

(c) The recipient must obtain the contracting officer's prior approval if a revision is necessary for any of the following six reasons, unless the requirement for prior approval is specifically waived in the program regulation or terms and conditions of the award:

(1) A change in the approved project director, principal investigator, or other key person specified in the application or award document.

(2) The absence for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.

(3) The inclusion of any additional costs that require prior approval in accordance with the applicable costs principles for Federal funds and the requirements applicable to the recipient's cost share or match, as provided in § 600.313 and § 600.317, respectively.

(4) The inclusion of pre-award costs for periods greater than the 90 calendar days immediately preceding the effective date of the award.

(5) A "no-cost" extension of the project period.

(6) Any subaward, transfer, or contracting out of substantive program performance under an award, unless described in the application and funded in the approved awards.

(d) If specifically required in the program regulation or the terms and conditions of the award, the recipient must obtain the contracting officer's prior approval for the following revisions:

(1) The transfer of funds among direct cost categories, functions, and activities for awards in which the Federal share of the project exceeds \$100,000 and the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the total budget as last approved by DOE.

(2) For awards that provide support for both construction and nonconstruction work, any fund or budget transfers between the two types of work supported.

(e) Within 30 calendar days from the date of receipt of the recipient's request for budget revisions, the contracting officer must review the request and notify the recipient whether the budget revisions have been approved. If the revision is still under consideration at the end of 30 calendar days, the contracting officer must inform the recipient in writing of the date when the recipient may expect the decision.

### § 600.316 Audits.

(a) Any recipient that expends \$500,000 or more in a year under Federal awards must have an audit made

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for that year by an independent auditor, in accordance with paragraph (b) of this section. If a recipient is currently performing under a Federal award that requires an audit by its Federal cognizant agency, that auditor must perform the independent audit. The audit generally should be made a part of the regularly scheduled, annual audit of the recipient's financial statements. However, it may be more economical in some cases to have Federal awards separately audited, and a recipient may elect to do so, unless that option is precluded by award terms and conditions or by Federal laws or regulations applicable to the program(s) under which the awards were made.

(b) The auditor must determine and report on whether:

(1) The recipient has an internal control structure that provides reasonable assurance that it is managing Federal awards in compliance with Federal laws and regulations and the terms and conditions of the awards.

(2) Based on a sampling of Federal award expenditures, the recipient has complied with laws, regulations, and award terms that may have a direct and material effect on Federal awards.

(c) The recipient must make the auditor's report available to the DOE contracting officers whose awards are affected.

(d) Before requesting an audit in addition to the independent audit, the contracting officer must:

(1) Consider whether the independent audit satisfies his or her requirements;

(2) Limit the scope of such additional audit to areas not adequately addressed by the independent audit; and

(3) If DOE is not the Federal agency with the predominant fiscal interest in the recipient, coordinate with the agency that has the predominant fiscal interest.

(e) The recipient and its Federal cognizant agency for audit should develop a coordinated audit approach to minimize duplication of audit work.

(f) Audit costs (including a reasonable allocation of the costs of the audit of the recipient's financial statement, based on the relative benefit to the Government and the recipient) are allowable costs of DOE awards.

### § 600.317 Allowable costs.

(a) DOE determines allowability of costs in accordance with the cost principles applicable to the type of entity incurring the cost as follows:

(1) *For-profit organizations.* Allowability of costs incurred by for-profit organizations and those nonprofit organizations listed in Attachment C to OMB Circular A-122 is determined in accordance with the for-profit costs principles in 48 CFR part 31 in the Federal Acquisition Regulation, except that patent prosecution costs are not allowable unless specifically authorized in the award document.

(2) *Other types of organizations.* Allowability of costs incurred by other types of organizations that may be subrecipients under a prime award to a for-profit organization is determined as follows:

(i) *Institutions of higher education.* Allowability is determined in accordance with OMB Circular A-21, "Cost Principles for Educational Institutions."

(ii) *Other nonprofit organizations.* Allowability is determined in accordance with OMB Circular A-122, "Cost Principles for Nonprofit Organizations."

(iii) *Hospitals.* Allowability is determined in accordance with the provisions of 45 CFR part 74, Appendix E, "Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals."

(iv) *Governmental organizations.* Allowability for State, local, or federally recognized Indian tribal government is determined in accordance with OMB Circular A-87, "Cost Principles for State and Local Governments."

(b) *Pre-award costs.* If a recipient incurs pre-award costs without the prior approval of the contracting officer, DOE may pay those costs incurred within the ninety calendar day period immediately preceding the effective date of the award, if such costs are:

(1) Necessary for the effective and economical conduct of the project;

(2) Otherwise allowable in accordance with the applicable cost principles; and

(3) Less than the total value of the award.